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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 13th MEETING
(SECOND PART*)

Held at the Palais des Nations, Geneva,
on Wednesday, 14 August 1991, at 10 a.m.

Chairman: Mr. JOINET
later: Mr. TURK

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Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission established under Commission on Human Rights resolution 8 (XXIII) (continued)

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* The summary record of the first part of the meeting appears as document E/CN.4/Sub.2/1991/SR.13.

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1. Mr. MAXIM emphasized the particular importance of the Sub-Commission's consideration of item 6 of its agenda. It was important because the Sub-Commission was made up of independent experts who were able to undertake an impartial and objective study of the human rights situation in various countries and to submit pertinent and credible conclusions and recommendations. It was essential, however, that the time allowed for the debate on that item should be in conformity with the hopes and purposes of the Sub-Commission and that the discussion should take place in an orderly and constructive atmosphere. He noted with satisfaction that the dramatic changes that had occurred in recent years in various parts of the world had had a very positive and good influence on the deliberations at the current session.

2. The need to depoliticize the discussions in order to address still more constructively and realistically the real problems posed today by respect and encouragement of human rights could not be overemphasized. Finally, agenda item 6 should be better organized and he thought that the members of the Sub-Commission should not take the floor and state their final opinion until they had heard the NGOs and government representatives who were participating in the session.

3. Mr. EIDE expressed his deep gratitude to the non-governmental organizations for the wealth of information they made regularly available to the Sub-Commission. He also thanked his colleagues, Mrs. Warzazi, Mr. Khalifa, Mr. Ilkahanaf, Mr. Sachar, Mr. Heller, Mr. Saboia and Mr. van Boven for their extremely interesting and useful statements on the question under consideration.

4. People talked a good deal nowadays about a new world order but without specifying what it would comprise. He believed that it should, as stated in the preamble to the Universal Declaration of Human Rights, be a world in which human beings would enjoy freedom of speech and belief and freedom from fear and want. The first two of those four freedoms were well known and frequently invoked in the Sub-Commission; however, what was the situation vis-à-vis the other two? Once again, the representatives of the NGOs, and in particular Habitat International Coalition, had drawn attention to the problems of the hunger suffered by millions of children throughout the world, of the homeless and of expulsions and more NGOs should be encouraged to raise that kind of issue in the Sub-Commission. The freedom resulting from the absence of fear was possible only in the setting of a general and comprehensive disarmament, which was unfortunately still far away. Moreover, in many countries, the security forces themselves were responsible for a reign of terror. That explained the strange contradiction between, on one hand, the will proclaimed by certain Governments to establish a multiparty democracy in which all the social and political groups would be represented and in which the various ethnic groups desirous of preserving their identity and culture and taking their destiny into their own hands would be recognized and, on the other hand, the impunity enjoyed by certain members of the security forces who sought to check the process of national reconciliation. One could also understand the frustrations felt by certain Governments that genuinely wished to improve the human rights situation in their countries vis-à-vis the criticism they incurred while those who did their utmost to sabotage the process of reform embarked

upon were passed over in silence. The Sub-Commission might address that issue under item 4 of its agenda, when it considered minimum human rights in times of conflict.

5. The encouraging progress made in certain countries, even though problems remained, should not be overlooked. That was the case in Cambodia, where there was beginning to be hope that peace and respect for human rights would at last be restored. The Soviet Union was also a good example of a Government caught between opposing forces. There was a very strong movement in that country in favour of the establishment of the primacy of the law resisted by certain elements which, because of their fear that the Soviet Union might break up, were taking measures whose effects were extremely unfortunate. He had observed that at first hand during his mission to the Soviet Union in connection with an inquiry into what had happened in the Baltic countries. He wished to stress the open-mindedness shown by the Soviet authorities in agreeing that international experts should come to verify the reliability of the national inquiries and in being willing to take account of the criticisms made.

6. In Turkey, the situation of certain ethnic groups continued to cause concern. He pointed out to the representative of Turkey, who had inferred that the allegations of human rights violations made by certain Western organizations such as Amnesty International had been prompted not only by political motivations but also by racial prejudice, that although racism as a pseudo-scientific theory had been born in Europe it was certainly not confined in practice to Europeans. Care should be taken to ensure that racism was not used as a pretext for diverting attention from real problems.

7. In conclusion, he stressed that the new world order should not only have as its essential components the four freedoms he had mentioned but should be established with international cooperation and that all countries should take part in that process.

8. Mr. FAN GHOXIANG (Observer for China) recalled that China was a multinational State with over 50 nationalities and that Tibet had formed part of its territory for centuries. Without any doubt, those who today advocated the independence of Tibet were denying historical fact. One only had to read the history of Tibet to understand at once that any charges of violations of the rights of Tibetans made against the Chinese Government were devoid of any foundation.

9. Until the 1950s, Tibetans had been subjected to a feudal regime similar to that which had existed in Europe in medieval times. More than 95 per cent of the population had been composed of serfs and slaves, oppressed, exploited, tortured and treated worse than animals. It was therefore easy to understand that they had enthusiastically welcomed the democratic reforms introduced into Tibet in 1959 which had taken the form of the abolition of the cruel and barbaric system of slavery and which had made Tibetan serfs free men who were masters of their destiny. Since that time, the Tibetan people had enjoyed all the political, civil, economic, social and cultural rights set forth in the Chinese Constitution and participated actively in the conduct of the State and of public affairs. Tibetans also enjoyed all kinds of special rights provided in the Constitution and in the legislation relating to the autonomous regions;

thus, they could set up autonomous bodies and exercise their autonomy and they were free to speak and write the Tibetan language and to preserve or change their customs. The democratic reforms applied in Tibet had also contributed to the economic and social development of the region; that, in turn, had brought about an improvement in the level of life of Tibetans and an increase in their life expectancy from 36 years in 1950 to 64 years today. Religious freedom was also fully guaranteed to Tibetans. At present there were more than 1,400 temples and other places of worship and approximately 34,000 Buddhist monks and nuns in Tibet. It was therefore undeniable that the fundamental human rights of Tibetan people were protected by law and fully respected in daily life. The Tibetan people had never enjoyed democracy and freedom as they did today. Those who currently militated in favour of independence for Tibet and of the restoration of the human rights of Tibetans were the very persons who, in the past, had used force to deprive the Tibetan people of their rights and fundamental freedoms. On the pretext of defending human rights, they sought to divide China and their real purpose was the restoration of slavery in Tibet. They should know that they would never succeed as the international community was not deceived and Tibetans would never again allow themselves to be enslaved.

10. Mrs. GALVIS (Observer for Colombia) said that much progress had been achieved in Colombia at the level of the pacification of the country and of respect for human rights. The most significant event had been the promulgation of the new Political Constitution of the Republic of Colombia which had entered into force on 5 July 1989. The Constitution had been drafted by the Constituent Assembly elected by the Colombian people, which represented all political trends and parties. The most significant reforms introduced by the new Constitution included the strengthening of rights already established and the recognition of new rights, the creation of machinery to guarantee and protect those rights and the development of participation by civil society.

11. Individual and collective fundamental rights, principles relating to the protection and effective exercise of those rights as well as the duties associated with the enjoyment of those rights were covered in Title II of the Constitution. All individual rights, such as the right to life or the right to the remedy of habeas corpus as well as fundamental rights such as freedom of religion, education, conscience and association were expressly stated, as were the prohibition of torture, slavery, discrimination towards women, the special rights of children, the rights of the indigenous populations to preserve their culture and the right to health, housing and to social assistance for the elderly and disabled. At the level of collective rights, stress was placed mainly on consumer protection by means of a quality control of the goods and services offered to the community, the right to a healthy environment and the guarantee of participation by citizens in decisions which might affect the exercise of their rights. In order to secure respect for the rights stated, the new Constitution guaranteed the immediate and unconditional application of the fundamental rights referred to in articles 11 to 40 and the right of everyone to appeal to the courts in the event of violation of those rights by action or by omission on the part of a public authority and obliged the State to compensate any victims of such violations. Article 93 of the

Constitution also stipulated that all the duties and rights that were stated in it would be interpreted in conformity with the international human rights instruments ratified by Colombia.

12. Colombian citizens also had duties which were set forth in Chapter 5 of Title II. They were required, inter alia, to obey the law, not to infringe the rights of others, not to misuse their own rights, to observe the principle of social solidarity, to support the lawfully constituted democratic authorities, to disseminate human rights as bases for peaceful coexistence, to take part in the political, civil and community life of the country, to defend peace, to cooperate in the smooth working of justice, to protect the cultural and natural resources of the country, to take part in the efforts to guarantee a healthy environment for all and to contribute to financing the expenditures of the State.

13. The new Constitution also made provision for the creation of the post of ombudsman who would be answerable to the Attorney-General of the Nation and whose main function would be to promote and disseminate human rights and to ensure that they were respected. In effect, the Constitution was a statement of principles and of rights but it was now up to Colombian citizens and Colombian society to ensure that those principles and rights became tangible facts. Obviously, peace would not be achieved overnight in Colombia but the new Constitution marked a first step towards the establishment of a democracy based on the human rights culture.

14. Mr. SHAH (Observer for India), speaking in exercise of the right of reply, deplored the fact that the non-governmental organization Liberation had allowed a terrorist organization like the Jammu and Kashmir Liberation Front to use its name in order to utter threats against a State Member of the United Nations. It should be made clear, first of all, that the right to self-determination which, according to the JKLF, was denied to the people of Jammu and Kashmir, could not be exercised in territories which formed part of a sovereign and independent State. The State of Jammu and Kashmir was unquestionably part of India, and the call for independence by the JKLF were part of a plan supported by foreign forces aimed at bringing about the secession of a region of India in violation of the Charter of the United Nations and of every principle of national sovereignty and integrity. Indeed, the illegal organization that had accused the Indian Government of human rights violations in the Sub-Commission was behind the acts of terrorism which had caused 900 deaths in Jammu and Kashmir during the past year. Its members infringed all the rights of the inhabitants of that State, and the Indian security forces had been deployed to put an end to those large-scale violations of human rights in the region. The investigation conducted by the Press Council of India, which was an independent and impartial body, had shown that the allegations of violations by the security forces had been devoid of any foundation and had even been made up from start to finish by the terrorists as part of a psychological war strategy and in order to discredit India in the eyes of the international community. A recent report by the well-known human rights defence organization Asia Watch gave a detailed description of the terrorist activities and the crimes committed in violation of human rights and international humanitarian law by the JKLF and other similar organizations in the State of Jammu and Kashmir.

15. There was a danger that, in the name of the defence of human rights, the Sub-Commission might be induced to bestow importance and respectability on subversive movements that infringed the Charter of the United Nations and the International Covenant on Civil and Political Rights. He urged the members of the Sub-Commission to be vigilant.

16. Mr. STIGLICH (Observer for Peru) informed the Sub-Commission that the President of the Republic of Peru had signed that very day a supreme decree under which provincial attorneys would henceforth be authorized to visit prisons and other places of detention to make inspections; police inspectors and all officials of the armed forces would be required to offer the representatives of the Peruvian judiciary all the safeguards necessary to enable them to discharge their functions. The decree was highly significant since it established the primacy of civil power over military power, and it was therefore important to bring it to the attention of the Sub-Commission.

17. It was also appropriate to draw attention to the decision taken by the Peruvian Government, in agreement with the 14 democratic political parties of Peru in the course of the discussions known as the "mass for peace", to launch a campaign to combat terrorism and drug trafficking in all sectors, and to take note of the establishment on that occasion of a National Peace Council in which not only ministries but also regional Governments, Peruvian non-governmental organizations and all the churches were represented. Conscious of the important role played by the non-governmental organizations which were the true representatives of civil society, the Peruvian Government had invited to Peru an Amnesty International delegation which had been able to meet various senior officials. Contrary to what had been said, the new Government in power in Peru for a year had taken measures in support of human rights, an issue which was debated openly in the written press and the audio-visual media as well as in the Parliament. It was resolved to ensure respect for human rights in Peru and to impose the appropriate penalties on all those who infringed them, whoever they might be. A number of senior army and navy officers had also been placed at the disposal of the judicial authorities. It should be recalled that Peru had to cope with the bloodthirsty activities of two terrorist groups, the Shining Path and the MRPA which had links with the drug traffickers, destroyed the country and murdered anyone who resisted them. The Peruvian Government was none the less determined to take the measures necessary in order to restore peace.

18. Mr. DEMIRALP (Observer for Turkey), speaking in exercise of the right of reply, deplored the fact that, despite the progress achieved towards the settlement of the question of Cyprus, the Greek Cypriots persisted in making statements which could only revive the conflict. The views of Turkey on the question were well known to the Sub-Commission and he would therefore refrain from restating them.

19. Mr. DORJI (Observer for Bhutan), speaking in exercise of the right of reply, categorically rejected the charges made against the Government of Bhutan by the International Federation of Human Rights and the World Organization Against Torture. Their allegations of human rights violations were devoid of any foundation and sought to tarnish the image of Bhutan in the eyes of the international community. Bhutan, which was a Buddhist kingdom,

had always respected human rights but had, at the present time, to cope with a massive inflow of illegal immigrants who threatened its survival. Those who claimed to be victims of human rights violations themselves engaged in acts of violence and were responsible for pillage, torture, rape and abductions for which the armed forces were blamed and set fire to government schools and health centres and afterwards accused the Government of deliberately depriving the population of any health and education infrastructure. The Government of Bhutan had replied in detail to all those charges in a document which was available to the members of the Sub-Commission.

The meeting rose at 7.25 p.m.